



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUL 24 2013

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James F. Tolen
Peabody Midwest Mining LLC – Bear Run Mine
7100 Eagle Crest Boulevard, Suite 100
Evansville, Indiana 47715

Re: Notice of Violation
Peabody Midwest Mining LLC – Bear Run Mine
Carlisle, Indiana

Dear Mr. Tolen:

The U.S. Environmental Protection Agency is issuing the enclosed Notice of Violation (NOV) to Peabody Midwest Mining LLC – Bear Run Mine (Peabody) under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). We find that Peabody violated the Indiana State Implementation Plan at its Carlisle, Indiana facility.

Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

We are offering Peabody an opportunity to confer with us about the violations alleged in the NOV. The conference will give Peabody an opportunity to present information on the specific findings of violation, any efforts the company has taken to comply, and the steps Peabody will take to prevent future violations.

Please plan for the facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. Peabody may have an attorney represent it at this conference.

The EPA contact in this matter is Bonnie Bush. You may call her at 312.353.6684 to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,


George T. Czerniak
Director
Air and Radiation Division

cc: Phil Perry, Branch Chief
Office of Air Quality / Compliance Branch
Indiana Department of Environmental Management

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

Peabody Midwest Mining LLC –
Bear Run Mine
Carlisle, Indiana

Proceedings Pursuant to
Section 113(a)(1) of the
Clean Air Act, 42 U.S.C.
§ 7413(a)(1)

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**NOTICE OF VIOLATION
EPA-5-13-IN-09**

NOTICE OF VIOLATION

The U.S. Environmental Protection Agency (EPA) is issuing this Notice of Violation under Section 113(a)(1) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a)(1). EPA finds that Peabody Midwest Mining LLC – Bear Run Mine (Peabody or you) is violating the Indiana State Implementation Plan (SIP), as follows:

Statutory and Regulatory Background

1. On October 28, 1975, EPA approved 326 Indiana Administrative Code (IAC) 6-4, Particulate Rules for Fugitive Dust Emissions, as part of the federally enforceable SIP for Indiana. 40 Fed. Reg. 50032.
2. On December 19, 2005, EPA approved 326 IAC 1-2-52 and 326 IAC 1-2-52.4, definitions for particulate matter and PM10, as part of the federally enforceable SIP for Indiana. 70 Fed. Reg. 60735.
3. Pursuant to 326 IAC 1-2-52, “particulate matter” means any airborne finely divided solid or liquid material, excluding uncombined water, with an aerodynamic diameter smaller than one hundred (100) micrometers (µm).
4. Pursuant to 326 IAC 1-2-52.4, “PM10” means any particulate matter with an aerodynamic diameter less than or equal to a nominal 10 µm as measured by an applicable reference method specified in 40 CFR Part 50 or by an equivalent or alternative method approved by the commissioner.
5. Pursuant to 326 IAC 6-4-1, “fugitive dust” means the generation of particulate matter to the extent that some portion of the material escapes beyond the property line or boundaries of the property, right-of-way, or easement on which the source is located.
6. Pursuant to 326 IAC 6-4-2(c), a source generating fugitive dust shall be in violation if the ground level ambient air concentrations exceed 50 micrograms per cubic meter above background concentrations for a 60-minute period.

7. Pursuant to 326 IAC 6-4-2(d), a source generating fugitive dust shall be in violation if fugitive dust is visible crossing the boundary line or property line of a source.

Peabody's Facility

8. Peabody owns and operates a surface coal mine, designated as the Bear Run Mine, at 7255 East CR 600 South, Carlisle, Indiana 47838.
9. Emissions from Peabody's Bear Run Mine are subject to the fugitive dust emissions regulations in the Indiana SIP at 326 IAC 6-4-2.

Violations

10. On November 17, 2011, EPA issued an information request under Section 114 of the CAA requiring Peabody to install ambient air monitors to measure PM10.
11. Peabody installed two continuous real-time PM10 monitors (Sites 1 and 2) downwind of the active mining pit at the Bear Run Mine and one continuous real-time PM10 monitor (Site 3) upwind of the active mining pit at Bear Run Mine. The monitor sites were chosen based on predominant wind direction in relation to the active mining pit.
12. Peabody began operation of the PM10 monitors on June 14, 2012, and continued monitoring through October 13, 2012.
13. Based on the PM10 monitoring data provided by Peabody, Sites 1 and 2 recorded PM10 data exceeding 50 micrograms per cubic meter above background concentrations measured at Site 3 for a 60-minute period more than 50 times at Site 1 and more than 100 times at Site 2, between June 14, 2012, and October 13, 2012.
14. Further, on several occasions EPA has received complaints, accompanied by photographic evidence, of visible fugitive dust crossing the boundary line of the Bear Run Mine.
15. Peabody violated and continues to violate 326 IAC 6-4-2(c) by generating fugitive dust that exceeds 50 micrograms per cubic meter above background concentrations for a sixty minute period.
16. Peabody violated and continues to violate 326 IAC 6-4-2(d) by generating fugitive dust that is visible crossing the boundary line or property line of the Bear Run Mine.

Environmental Impact of Violations

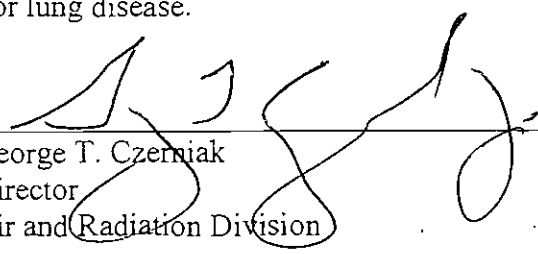
17. These violations have caused or can cause excess emissions of particulate matter.

18. Particulate Matter: Particulate matter, especially fine particulates, contains microscopic solids or liquid droplets, which can get deep into the lungs and cause serious health problems. Particulate matter exposure contributes to:

- irritation of the airways, coughing, and difficulty breathing;
- decreased lung function;
- aggravated asthma;
- chronic bronchitis;
- irregular heartbeat;
- nonfatal heart attacks; and
- premature death in people with heart or lung disease.

Date

7/24/13


George T. Czerniak
Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, [Name], certify that I sent a Notice of Violation, No. EPA-5-13-IN-09, by Certified Mail, Return Receipt Requested, to:

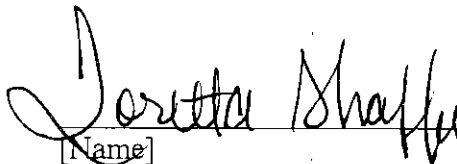
James F. Tolen
Peabody Midwest Mining LLC – Bear Run Mine
7100 Eagle Crest Blvd, Suite 100
Evansville, Indiana 47715

I also certify that I sent copies of the Notice of Violation by first-class mail to:

Phil Perry, Branch Chief
Office of Air Quality / Compliance
Branch
Indiana Department of Environmental
Management
100 North Senate Avenue, Room IGCN
1003
Indianapolis, Indiana 46206-2251

John W. Watson
Partner
Baker & McKenzie LLP
300 E. Randolph Street, Suite 5000
Chicago, Illinois 60601

On the 29 day of July 2013.



[Name]

[Title]

AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER:

7009 1680 0000 7673 9993